

REMARKS

In the Office Action mailed November 16, 2004, the Examiner rejected Claims 1, 6, 7 and 19 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,598,566 (issued January 28, 1997; hereinafter “Pascucci”). The Examiner also rejected Claims 2, 3 and 34 through 38 under 35 U.S.C. § 103(a) as being unpatentable over Pascucci. The Examiner further stated that Claims 4, 5, 8 through 18 and 39 through 48 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 20 through 33 were allowed by the Examiner. Applicant sincerely appreciates the Examiner's indication of allowable subject matter.

Claims 1 through 19

The Examiner rejected Claim 1 under 35 U.S.C. § 102(b) as being anticipated by Pascucci. Claim 1 recites a method for operating a first optical device that is associated with an information processing device that includes the steps of providing a first data signal to the information processing device and operating the first optical device other than in accordance with the first data signal by changing the first data signal to generate a second signal, wherein the second signal comprises a plurality of bit transitions. Pascucci does not teach operating an optical device other than in accordance with a data signal by changing a first data signal to generate a second signal, wherein the second signal comprises a plurality of bit transitions. Rather, Pascucci teaches indicators that remain constantly illuminated while data transitions are occurring in the transmission or reception of data (see e.g., column 96, lines 19 through 27). For at least these reasons, Claim 1 is novel in view of Pascucci. The Applicant, therefore, respectfully requests reconsideration and allowance of Claim 1.

Claims 2 through 19 depend from independent Claim 1 and inherit all of the novel features of this independent claim. For at least these reasons, Claims 2 through 19 are also novel. Applicant respectfully requests reconsideration and allowance of Claims 2 through 19 as well.

Claims 34 through 48

The Examiner rejected Claim 34 under 35 USC § 103(a) as being unpatentable over Pascucci. Applicant respectfully disagrees.

Claim 34 recites a method for obtaining data from an information processing device that includes steps of providing a first data signal to the information processing device and displaying a state of the first data signal crossing an interface associated with the information processing device using a first optical device that is associated with the information processing device. Claim 34 also includes steps of monitoring an optical output of the first optical device, generating an optical output-based signal from the monitoring step, and retrieving data from the optical output-based signal from the monitoring step using a computer.

The Examiner states that Pascucci discloses the steps of providing a first data signal to the information processing device, displaying a state of the first data signal crossing an interface associated with the information processing device using a first optical device that is associated with the information processing device, and monitoring an optical output of the first optical device. The Examiner states that Pascucci does not disclose retrieving data from the optical output-based signal from the monitoring step using a computer; yet, the Examiner states that "using the computer to retrieve data is well-known in the art. Therefore, it would have been an obvious design choice to use the computer to retrieve data as needed." Applicant respectfully disagrees with the Examiner's suggestion. For instance, the Examiner has failed to show where Pascucci discloses a step of

generating an optical output-based signal from the monitoring step, as required by the Applicant's Claim 34.

To establish a *prima facie* case of obviousness, the Examiner must show that all of the claim limitations are either taught or reasonably suggested by the prior art (*see e.g.*, M.P.E.P. § 2143.03 and *In re Vaeck*, 947 F.2d 488, 493 (C.A. Fed, 1991)). Since the Examiner has failed to show where Pascucci teaches or reasonably suggests a step of generating an optical output-based signal from the monitoring step, the Examiner has failed to show that all of Applicant's limitations in Claim 34 are either taught or reasonably suggested by Pascucci. Accordingly, the Examiner has failed to establish a *prima facie* case of obviousness.

The problem addressed by Claim 34 is how to retrieve data from an information processing device by monitoring an optical output of a first optical device of the information processing device. This problem is not addressed in any manner by Pascucci. Portions of Pascucci referenced by the Examiner pertain to addressing the problem of electrical noise. As such, one skilled in the art simply would not be motivated to modify the teachings of Pascucci in any manner that yields Applicant's invention of Claim 34. The fact that it is known to use computers to "retrieve data" does not provide a sufficient basis to modify the teachings of Pascucci in any manner that yields Applicant's invention of Claim 34. Pascucci fails to recognize that data can be retrieved from an information processing device by monitoring an associated optical device, and thereby fails to disclose even a single way to retrieve data from an information processing device by monitoring an associated optical device. Claim 34 is allowable over Pascucci.

Applicant maintains that Claim 34 is novel and nonobvious in view of Pascucci. Applicant, therefore, respectfully requests reconsideration and allowance of Claim 34. Claims 35 through 48 depend from independent Claim 34 and inherit all of the novel and nonobvious features of the

corresponding independent claim. For at least these reasons, Applicant respectfully requests reconsideration and allowance of Claims 35 through 48 as well.

New Claims 49 and 50

Applicant has added new Claims 49 and 50. In the Office Action, the Examiner objected to Claims 4, 5, 8 through 18 and 39 through 48 as being dependent upon a rejected base claim, and indicated that these claims would be allowable if rewritten in independent form so as to include all of the limitations of the base claim and any intervening claims.

In new Claim 49, Applicant rewrote claim 8 in independent form, including all of the limitations of independent Claim 1 and dependent Claim 6 as suggested by the Examiner. Applicant, therefore, respectfully requests allowance of new claim 49.

In new Claim 50, the Applicant rewrote Claim 4 in independent form, incorporating all of the limitations of independent Claim 1 as suggested by the Examiner. The Applicant, therefore, respectfully requests allowance of new Claim 50.

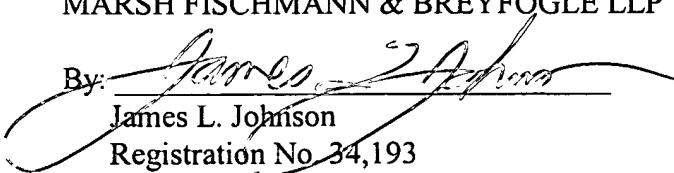
CONCLUSION

Based upon the foregoing, Applicant believes that all pending claims are in condition for allowance and such a disposition is respectfully requested. In the event that a telephone conversation would further prosecution and/or expedite allowance, the Examiner is invited to contact the undersigned.

Respectfully submitted,

MARSH FISCHMANN & BREYFOGLE LLP

By:



James L. Johnson

Registration No. 34,193

3151 South Vaughn Way, Suite 411

Aurora, Colorado 80014

(701) 293-7680

Date: 2/16/05